IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF TEXAS TYLER DIVISION

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STEVEN MOODY

Plaintiff

V.

Case No. 6:19cv56-JDK-KNM

BRYAN COLLIER, ET AL.

Defendants

ORDER ADOPTING REPORT AND RECOMMENDATION OF UNITED STATES MAGISTRATE JUDGE

Plaintiff Steven Moody, an inmate proceeding pro se, filed the above-styled and numbered civil rights lawsuit under 42 U.S.C. § 1983. The case was originally filed with a number of other inmates as co-plaintiffs, but all of these other inmates have been dismissed. The case was referred to United States Magistrate Judge K. Nicole Mitchell pursuant to 28 U.S.C. § 636. The Magistrate Judge issued a Report recommending that the lawsuit be dismissed with prejudice as barred by the three-strike provision of 28 U.S.C. § 1915(g). Plaintiff did not file objections to the Report.

This Court reviews the findings and conclusions of the Magistrate Judge de novo only if a party objects within fourteen days of service of the Report and Recommendation. 28 U.S.C. § 636(b)(1). In conducting a de novo review, the Court examines the entire record and makes an independent assessment under the law. *Douglass v. United Servs. Auto. Ass'n*, 79 F.3d 1415, 1430 5th Cir. 1996) (en banc), *superseded on other grounds by statute*, 28 U.S.C. § 636(b)(1) (extending the time to file objections from ten to fourteen days). Here, Plaintiff did not file objections in the prescribed period. The Court therefore reviews the Magistrate Judge's findings or clear error or abuse of discretion and reviews her legal conclusions to determine whether they are contrary to law. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989), cert. denied, 492 U.S. 918 (1989) (holding that, if no objections to a Magistrate Judge's Report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law").

Having reviewed the Magistrate Judge's Report and Recommendation, the Court finds no clear error or abuse of discretion and no conclusions contrary to law. The Court therefore adopts the Report and Recommendation of the United States Magistrate Judge as the findings of this Court.

Accordingly, it is hereby **ORDERED** that the Magistrate Judge's Report (Docket No. 53) is **ADOPTED**. The above-styled civil action is **DISMISSED WITH PREJUDICE** as to the refiling of another *in forma pauperis* lawsuit raising the same claims as herein presented, but without prejudice as to the refiling of the lawsuit without seeking *in forma pauperis* status and upon payment of the full \$400.00 filing fee. Should Plaintiff pay the full filing fee within 15 days of the date of entry of final judgment, he shall be allowed to proceed in this lawsuit as though the full fee had been paid from the outset. All pending motions are **DENIED** as **MOOT**.

So ORDERED and SIGNED this 30th day of September, 2020.

JERUMY D KERNODLE

UNITED STATES DISTRICT JUDGE